

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2791 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-

=====

1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

J

3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

-----

SUDHIR SHANTILAL PATEL

Versus

STATE OF GUJARAT

-----

Appearance:

MR BC DAVE for Petitioner

MR KT DAVE APP for Respondent No. 1

-----

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 22/07/98

ORAL JUDGEMENT

RULE. Learned Assistant Public Prosecutor waives  
service of Rule for the Respondents.

2. This is an application with a prayer to quash and

set aside the First Information Report (the FIR for brief) filed before the D.C.B., Baroda being I-C.R. No.13/94 for the offences punishable under the provisions of Sections 406 and 420 of the Indian Penal Code. It has also been prayed that, during the pendency of this application, the passport of the petitioner which is lying with the Court of the learned Chief Judicial Magistrate, Baroda bearing No.I-082567 be released for a period of three months so as to enable the petitioner to leave the country for his professional work.

3. At the time of hearing of this application, learned Advocate Shri Bharat C. Dave appearing for the petitioner has not pressed the prayer for quashing and setting aside the FIR filed before the D.C.B., Baroda at this stage.

4. It has been submitted by learned Advocate Shri Bharat C.Dave that, for the purpose of his business, it is absolutely necessary for the petitioner to go to Dubai and if he is not permitted to go to Dubai, it would not be possible for him to do his business. He has drawn my attention to the two orders passed by this court which are annexed and marked as Annexure-C (Collectively) to this application whereby the petitioner was permitted to leave the country on certain conditions.

5. After hearing the concerned Advocates, prima facie, it appears that no harm would be caused if the petitioner is permitted to leave the country for a period of three months on certain conditions. The petitioner shall give a bank guarantee for Rs.35,000/- (rupees thirty five thousand) to the effect that, if he does not return to India within a period of three months from the date of his departure, the said amount shall be forfeited by the Government. Moreover, he shall file his undertaking with this court to the effect that he shall come back to India within three months from the date of his departure. Further, the petitioner shall also file an affidavit of the original surety in the Court of the Chief Judicial Magistrate, Baroda that the surety has no objection to the petitioner's going abroad.

6. In the circumstances, it is ordered that the petitioner's passport shall be returned to him and the petitioner shall deposit the same before the Chief Judicial Magistrate, Baroda within three months from the date of release of the passport. Rule is made absolute. Direct Service is permitted.

\*\*\*\*\*

[KMG Thilake]